

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION**

WEARWELL, LLC,)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	
v.)	
)	
M+A MATTING, LLC,)	JURY TRIAL DEMANDED
)	
Defendant.)	

**COMPLAINT FOR
PATENT INFRINGEMENT**

Wearwell, LLC (“Wearwell” or “Plaintiff”), by and through its undersigned counsel, hereby files its Complaint For Patent Infringement and alleges as follows:

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code, and in particular 35 U.S.C. § 271.

PARTIES

2. Plaintiff Wearwell, LLC is a Tennessee limited liability company with its principal place of business in Smyrna, Tennessee.

3. Upon information and belief, Defendant M+A Matting, LLC (“M+A” or “Defendant”) is a Georgia limited liability company with its principal place of business at 1729 South Davis Road, LaGrange, Troup County, Georgia 30241.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. M+A is subject to personal jurisdiction in Georgia because it is a Georgia limited liability company, it does business here, and its headquarters are here. Furthermore, upon information and belief, M+A regularly conducts business and has committed acts of patent infringement and/or has induced acts of patent infringement by others in this judicial district and/or has contributed to patent infringement by others in this judicial district, the State of Georgia, and throughout the United States.

6. Venue is proper in the Northern District of Georgia pursuant to 28 U.S.C. §§ 1391(a)(1), (b), and (c) and 1400(b) because M+A resides here, does business here, and its headquarters are here, and furthermore, upon information and belief, M+A regularly conducts business and has committed acts of patent infringement and/or has induced acts of patent infringement by others in this judicial district and/or has contributed to patent infringement by others in this judicial district, the State of Georgia, and throughout the United States.

PATENTS-IN-SUIT

7. Wearwell is the assignee of all right, title and interest in United States Patent Nos. 11,174,648 (the “‘648 Patent”) and 11,454,037 (the “‘037 Patent”), (collectively the “Patents-in-Suit”). Wearwell has all rights to enforce and prosecute actions for infringement and to seek damages for all relevant times against infringers of the Patents-in-Suit. Accordingly, Wearwell possesses the exclusive right and standing to prosecute the present action for infringement of the Patents-in-Suit by M+A.

8. On November 16, 2021, the United States Patent and Trademark Office issued the ‘648 Patent. The ‘648 Patent is titled “Interlocking Modular Mat With Sponge Insert.” The application which matured into the ‘648 Patent was filed on April 3, 2020 and was assigned Serial No. 16/839,101. A true and correct copy of the ‘648 Patent is attached to this Complaint as Exhibit A and is incorporated herein by reference.

9. The ‘648 Patent is valid and enforceable.

10. Wearwell, though its attorneys, provided notice to M+A of its infringement of the ‘648 Patent by sending a Notice of Infringement letter around February 10, 2022, advising M+A of the allowed claims. On February 23, 2022, M+A acknowledged receipt of the Notice of Infringement letter and specifically

referenced the '648 Patent. As such, Wearwell is informed and believes that M+A has had knowledge of the '648 Patent, and of Plaintiff's rights therein, since at least that date.

11. On September 21, 2022, the United States Patent and Trademark Office issued the '037 Patent. The '037 Patent is titled "Interlocking Modular Mat With Sponge Insert." The application which matured into the '037 Patent was filed on July 6, 2022 and was assigned Serial No. 17/858,246. A true and correct copy of the '037 Patent is attached to this Complaint as Exhibit B and is incorporated herein by reference.

12. The '037 Patent is valid and enforceable.

13. Wearwell, though its attorneys, provided notice to M+A of its infringement of the '037 Patent by sending a Notice of Infringement letter around September 15, 2022, advising M+A of the allowed claims. On September 30, 2022 M+A acknowledged receipt of the Notice of Infringement letter and specifically referenced the '037 Patent. As such, Wearwell is informed and believes that M+A has had knowledge of the '037 Patent, and of Plaintiff's rights therein, since at least that date.

14. Despite these notices, M+A continues to infringe the Patents-in-Suit.

COUNT I: INFRINGEMENT OF THE '648 PATENT

15. Wearwell repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint as though they were fully rewritten here.

16. Wearwell has not licensed or otherwise authorized M+A to make, use, offer for sale, sell, or import any products that embody the inventions of the '648 Patent.

17. Wearwell is informed and believes that: M+A has directly infringed and continues to directly infringe the '648 Patent, either literally or under the doctrine of equivalents, without authority and in violation of 35 U.S.C. § 271, by itself and/or through its agents, unlawfully and wrongfully making, using, offering to sell, selling and/or importing into the United States products that satisfy each and every limitation of one or more of the claims of the '648 Patent without permission or license from the Plaintiff, and will continue to do so unless enjoined by this Court. Attached as Exhibit C is a list that includes, but is not limited to, the M+A models that infringe the '648 Patent. Attached as Exhibit D are PDF copies of screen-shots of M+A's Internet website pages that display the models listed in Exhibit C.

18. Wearwell is informed and believes that: M+A has indirectly infringed and continues to indirectly infringe one or more of the claims of the '648 Patent by knowingly and intentionally inducing others to directly infringe, either literally or

under the doctrine of equivalents, by making, using, offering to sell, selling and/or importing into the United States products that satisfy each and every limitation of one or more of the claims of the '648 Patent.

19. Wearwell is informed and believes that: M+A, with knowledge that the products infringe the '648 Patent, knowingly and intentionally induced, and continues to knowingly and intentionally induce, direct infringement of the '648 Patent by providing infringing products for sale at retail locations across this Judicial District, in Georgia, and throughout the United States.

20. Wearwell is informed and believes that: M+A has induced infringement by others, including end users, with the intent to cause infringing acts by others or, in the alternative, with the belief that there was a high probability that others infringe the '648 Patent, but while remaining willfully blind to that infringement.

21. Wearwell has suffered, and continues to suffer, damages as a result of M+A's direct infringement of the '648 Patent in an amount to be determined at trial.

22. Wearwell has suffered, and will continue to suffer, irreparable harm as a result of M+A's infringement of the '648 Patent, for which there is no adequate remedy at law, unless M+A's infringement is enjoined permanently by this Court.

COUNT II: INFRINGEMENT OF THE '037 PATENT

23. Wearwell repeats and re-alleges the allegations contained in paragraphs 1-14 of this Complaint as though they were fully rewritten here.

24. Wearwell has not licensed or otherwise authorized M+A to make, use, offer for sale, sell, or import any products that embody the inventions of the '037 Patent.

25. Wearwell is informed and believes that: M+A has directly infringed and continues to directly infringe the '037 Patent, either literally or under the doctrine of equivalents, without authority and in violation of 35 U.S.C. § 271, by itself and/or through its agents, unlawfully and wrongfully making, using, offering to sell, selling and/or importing into the United States products that satisfy each and every limitation of one or more of the claims of the '037 Patent without permission or license from the Plaintiff, and will continue to do so unless enjoined by this Court. Attached as Exhibit C is a spreadsheet that lists and includes, but is not limited to, the M+A models that infringe the '037 Patent. Attached as Exhibit D are PDF copies of screen-shots of M+A's Internet website pages that display the models listed in Exhibit C.

26. Wearwell is informed and believes that: M+A has indirectly infringed and continues to indirectly infringe one or more of the claims of the '037 Patent by

knowingly and intentionally inducing others to directly infringe, either literally or under the doctrine of equivalents, by making, using, offering to sell, selling and/or importing into the United States products that satisfy each and every limitation of one or more of the claims of the '037 Patent.

27. Wearwell is informed and believes that: M+A, with knowledge that the products infringe the '037 Patent, knowingly and intentionally induced, and continues to knowingly and intentionally induce, direct infringement of the '037 Patent by providing infringing products for sale at retail locations across this Judicial District, in Georgia, and throughout the United States.

28. Wearwell is informed and believes that: M+A has induced infringement by others, including end users, with the intent to cause infringing acts by others or, in the alternative, with the belief that there was a high probability that others infringe the '037 Patent, but while remaining willfully blind to that infringement.

29. Wearwell has suffered, and continues to suffer, damages as a result of M+A's direct infringement of the '037 Patent in an amount to be determined at trial.

30. Wearwell has suffered, and will continue to suffer, irreparable harm as a result of M+A's infringement of the '037 Patent, for which there is no adequate remedy at law, unless M+A's infringement is enjoined permanently by this Court.

JURY DEMAND

32. Under Rule 38(b) of the Federal Rules of Civil Procedure, Wearwell respectfully requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Wearwell respectfully requests this Court to enter judgment against M+A, granting the following relief:

A. A declaration that the '648 Patent and the '037 Patent are valid and enforceable, and that M+A has infringed the Patents-in-Suit under at least the provisions of 35 U.S.C. § 271(a) and/or (c);

B. An award of damages to compensate Wearwell for infringement of the Patents-in-Suit pursuant to 35 U.S.C. § 284;

C. An order that M+A and its officers, directors, agents, servants, employees, successors, assigns, and all persons in active concert or participation with them, be preliminarily and permanently enjoined from infringing the Patents-in-Suit under 35 U.S.C. § 283;

D. An award of damages, including trebling of all damages, sufficient to remedy M+A's willful infringement of the Patents-in-Suit under 35 U.S.C. § 284;

E. A declaration that this case is exceptional, and award to Wearwell its reasonable attorneys' fees, expenses, and costs under 35 U.S.C. § 285;

- F. An award of prejudgment and post-judgment interest; and
- G. Such other and further relief as this Court deems just and proper.

Respectfully submitted, this 23rd day of February, 2023.

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